

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT ALAN ANTON,

Plaintiff,

vs.

1: 05 CV 0412 OWW WMW PC

ORDER RE MOTION (DOC 43)

DEPT. OF CORRECTIONS, et al.,

Defendants.

Plaintiff has filed a request for the entry of default against Defendant Mendez. Defendant Mendez filed an opposition, correctly noting that the deadline for filing a responsive pleading has not yet passed. Because Defendant Mendez has not failed to file any pleading or otherwise defend this action, Plaintiff's motion should be denied.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the entry of default against Defendant Mendez is denied.

IT IS SO ORDERED.

Dated: September 3, 2008

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE